

# NEVADA DEPARTMENT OF TAXATION

HTTP://TAX.STATE.NV.US



# NEVADA TAX NOTES

*The official newsletter of the Department of Taxation*

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## DEPARTMENT OF TAXATION OFFICES

### MAIN OFFICE

1550 College Parkway, Suite 100  
Carson City, Nevada 89706

**Mailing:** 1550 College Parkway, Suite 115  
Carson City, Nevada 89706

Phone: **(775) 684-2000 (Switchboard)**

Fax: **(775) 684-2020**

### RENO DISTRICT OFFICE

Kietzke Plaza  
4600 Kietzke Lane Building L, Suite 235  
Reno, Nevada 89502  
Phone: (775) 688-1295  
Fax: (775) 688-1303

### LAS VEGAS DISTRICT OFFICE

Grant Sawyer Office Building  
555 E. Washington Avenue, Suite 1300  
Las Vegas, Nevada 89101  
Phone: (702) 486-2300  
Fax: (702) 486-2373

### HENDERSON FIELD OFFICE

2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074  
Phone: (702) 486-2300  
Fax: (702) 486-3377

### ELKO FIELD OFFICE

850 Elm Street  
Elko, Nevada 89801  
Phone: (775) 753-1115  
Fax: (775) 778-6814

**Advisory:** Due to the monthly and quarterly tax filing requirements, our offices are extremely busy the last few days of any month with people filing their tax returns. It is recommended, whenever possible, that you time your visits to the office for other than the last few days of the month to avoid a long wait.

## COMMUNICATING BY MAIL WITH THE DEPARTMENT

If you are writing or sending information to one of the Department's Revenue Officers, Tax Examiners, or other staff, please use the mailing address of the appropriate office. If you are filing a tax return, please use the envelope the Department provided because it is addressed directly to the bank.

### "ASK THE ADVISOR" BASIC TRAINING

The Department will be presenting basic tax training as well as industry-specific training throughout the year. The three-hour free workshops include training on business license requirements, sales and use tax, modified business tax, live entertainment tax, collection of taxes, resale certificates, exemptions, how to prepare amended tax returns, how to prepare for an audit and your petition rights. The workshops will be held in the Henderson office listed on this page and begin at 9:00 a.m. The next class is scheduled for Tuesday, April 18, 2006. Classes are also scheduled for Tuesday, May 16, 2006 and Tuesday, June 20, 2006.

"Ask the Advisors" information may also be accessed from the Department website at <http://tax.state.nv.us> and "Ask the Advisors." At this site you may view a Power Point presentation of Department of Taxation workshop information or plan to attend the next scheduled training.

### HAZARDOUS WASTE DISPOSAL FEES

Any fees or charges for services rendered in connection with a retail sale of TTP are subject to sales tax, whether or not separately stated on an invoice. Such fees could include a waste oil disposal fee, used antifreeze disposal fee or used tire disposal fee.

## **SALES/USE TAX INCREASE**

- Effective April 1, 2006, the sales/use tax rate in Carson City will increase by 1/8 of one percent (0.125%) to a total rate of 7.125%. The increase is to be pledged for payment of V&T historical bonds.
- Effective July 1, 2006, and in conjunction with the severe financial emergency, the sales/use tax rate in White Pine County will increase by 1/4 of one percent (0.25%) to a total rate of 7.375%.

All vendors selling in or delivering into those counties on or after that date will be required to collect the appropriate new taxes.

Construction contracts entered into and signed prior to April 1, 2006 (Carson City) or July 1, 2006 (White Pine County), may be exempt from the additional tax rate increase if an exemption letter is obtained from the Department of Taxation. The exemption is only available to Contractors with existing construction contracts; it is not available to vendors with purchase agreements or sales contracts. For more information on how to obtain a Contractors exemption letter, please contact the Carson City office of the Department of Taxation at (775) 684-2000.

## **PENALTY AND INTEREST REMINDER**

The regulation waiving penalty and interest for late payments on Modified Business Tax, Live Entertainment Tax and Business License fees expired on 12/31/2005. Penalty and interest will be assessed on all past due periods in which a return and/or payment was not received prior to or on 12/31/2005. The Nevada Tax Commission at its January 9, 2006, meeting decided that any further extensions of the waiver period were no longer necessary. This policy decision was based on the fact that the Business License fee, Live Entertainment Tax and Modified Business Tax have been in place since July 2003.

## **CIGARETTE SALES: BRANDS MUST BE ON THE NEVADA TOBACCO DIRECTORY**

Effective January 1, 2006, it is unlawful for any person to affix a stamp to sell, offer or possess for sale in this State cigarettes of a manufacturer of tobacco products or brand family not included in the Nevada Tobacco Directory. Any brand held in possession or constructive possession of any person not authorized under NRS Chapter 370 is considered contraband and subject to confiscation. In addition, violations of this regulation may subject persons to civil penalties. All brands tendered or offered for sale in this state can be verified in the Tobacco Directory posted on the Department of Taxation website at: <http://tax.state.nv.us>.

## **RETAILERS – CIGARETTE PURCHASES FROM LICENSED DEALERS, REQUIRED INVOICES**

Pursuant to NRS Chapter 370, no retailer, retail cigarette dealer or cigarette vending machine operator shall purchase any cigarettes from other than a Nevada licensed wholesale cigarette dealer. Every retail dealer

making a sale to a customer shall, at the time of sale, see that each package, packet or container has the Nevada cigarette revenue stamp or metered stamping machine indicia properly affixed. Every retail dealer shall keep at his place of business complete and accurate records for that place of business, including copies of all itemized invoices or purchases of such products purchased and delivered from wholesale dealers. The invoices must show the name and address of the wholesale dealer and the date of the purchase. All records must be preserved for at least 3 years after the date of the purchase. Any cigarettes found in the possession of any person except a person authorized by law or regulation to possess them, which do not bear indicia of Nevada excise tax stamping, must be seized by the Department or any of its agents. A list of all currently licensed Nevada Cigarette Dealers may be obtained at: <http://tax.state.nv.us>.

## **RETAILERS PURCHASE OTHER TOBACCO PRODUCTS FROM LICENSED NEVADA OTP DEALERS, 30% EXCISE TAX**

Pursuant to NRS Chapter 370, an excise tax is imposed upon the purchase or possession of products made from tobacco, other than cigarettes, by a customer in this State at a tax of 30 percent of the wholesale price of those products. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of those products by the wholesale dealer. It is unlawful for any person to sell or offer to sell any products made from tobacco, other than cigarettes, on which the tax is not paid, and any dealer who sells or distributes any of those products without paying the tax provided is guilty of a misdemeanor. Other tobacco products not purchased from licensed Nevada dealers are subject to 30 percent excise tax, penalty and interest. A list of all currently licensed Nevada Cigarette and Other Tobacco Dealers may be obtained at: <http://tax.state.nv.us>.

## **LEASING MOTOR VEHICLES TO EXEMPT ENTITIES**

Effective July 1, 2003, NRS 372.7283 and 374.729 were amended to provide a use tax exemption for the leasing of motor vehicles to the State of Nevada, its unincorporated agencies and instrumentalities. In addition, effective July 1, 2005, Senate Bill 321 enacted during the 2005 Legislative Session provides for a use tax exemption on the leasing of motor vehicles to nonprofit organizations created for religious, charitable or educational purposes. Those lessors who are interested in claiming the exemption for the nonprofit organizations need to keep in mind that they are required to obtain a copy of the exemption letter issued by the Department to the exempt entity (as required by NRS 372.343) to qualify for the exemption.

## **THE LEASING INDUSTRY AND THE COLLECTION ALLOWANCE CHANGE**

As reported in the January 2006 "Nevada Tax Notes" edition, starting with the July 2006 reporting period, the

0.5% collection allowance will only be applicable to the sales tax collected and remitted to the State. It will no longer be allowed on use tax reported (NRS 372.370). As a reminder to all leasing and renting establishments, when an election is made to charge tax on the rental stream of payments rather than the purchase price of an item being rented or leased, the tax is considered a use tax rather than a sales tax (NAC 372.080). Consequently, the 0.5% collection allowance will not be allowed on this tax.

#### **CHANGE IN METHOD OF CLAIMING BAD DEBTS**

Effective January 1, 2006, retailers unable to collect all or part of the sales price of any sale of tangible personal property may claim a credit against the amount of sales tax previously paid to the State of Nevada by taking the deduction on the return that covers the period during which the bad debt is written off. The sales must have been included in the gross receipts reported for a previous sales tax reporting period(s) and must be eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166 or, if the retailer is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166. Please note that a claim for bad debt is available to retailers only. A bad debt cannot be claimed for uncollectible lease/rental receipts that are subject to the use tax reporting as detailed in NAC 372.080.

#### **SALES TO TRIBAL GOVERNMENTS**

Nevada Revised Statutes (NRS 372.325) exempts from sales tax sales to the United States, its incorporated and unincorporated agencies and instrumentalities, the State of Nevada and its unincorporated agencies and instrumentalities, and any county, city, district or other political subdivision of this state. When not on a reservation, a tribal government does not fall into any of the categories exempted by NRS 372.325. The tribal government's status as an exempt entity is conferred to the boundaries of the reservation and is dependent upon the tribal government imposing a tax equal to or greater than the tax imposed by this State through approved tribal tax ordinances filed with this Department (NRS 372.800 and 372.805).

NRS 372.335 exempts from sales tax the sale of tangible personal property that is shipped to a point outside this state pursuant to a contract of sale and is delivered by the vendor to such point. A tribal government qualifies for this exemption when merchandise is sold to the tribal government and delivered by the vendor on the reservation.

Furthermore, the exemption afforded sales on the reservation is only extended to the tribal government and is not transferable to individual tribal members, any other entity/person for personal use or third-party contractors engaged in performing tribal construction projects ("Nevada Tax Notes," Issue No. 148, October 2004, page 3).

#### **NEW COMPUTER SYSTEM**

The Department of Taxation is in the process of developing a new computerized Tax Administration System (TAS)

as part of our continuing effort to provide consistent, effective and efficient administration of taxes.

The first phase of the system implementation took place in June 2005 and included the administration of Business License (BL) registration and renewal, and Modified Business Tax (MBT) filing. The second phase will take place in May 2006 and will include the administration of sales and use tax. This will enable taxpayers to register and file tax returns for all three tax types on the new Internet Online Tax service. It will also enable the Department of Taxation to become timelier on notifying taxpayers when they have become delinquent in any tax filing, processing deficiency determinations on non-filed tax returns and notifying taxpayers of bond requirements. When a taxpayer's account becomes delinquent, immediate notification will be mailed asking that the tax return be filed within a specific amount of time. If the tax return is not filed, a deficiency determination will be computed using the best information available to the Department and the taxpayer will be billed. As with all determinations, the taxpayer will have an additional 45 days to submit its return or petition the determination.

In addition, the new system will enable the Department to separate a taxpayer's use tax liability from the sales tax it has collected and is remitting to the Department. In accordance with NRS 372.370 and 374.375, the collection allowance of 0.5% will only be allowed on the sales tax collected from its customers.

In the future, all BL and MBT correspondence from the Department will reference the taxpayer's Taxpayer Identification number (TID).

In addition to the 10-digit TID, a 3-digit prefix will be printed on BL renewals and MBT returns to identify the associated tax and form type. For example, a MBT General Business tax return will have the 3-digit prefix and TID printed on the form in the following format:

020-TX-1234567890

The 3-digit prefix and TID will print on all MBT returns and BL renewals. Please contact and share this information with your tax preparer so that necessary updates are made for your own record-keeping purposes.

#### **INCREASED CALL VOLUME**

The Department has implemented the first of four phases of a new computer system with the Business License and the Modified Business Tax. One of the features of this new system is that it automatically generates various notices, such as Initial Bills, Deficiency Notices, Credit Notices, Offset Notices and Monthly Bills. A major impact of these notices has been an increased volume of telephone calls to the Department. Our current telephone system has become overloaded at times and if all of our lines are busy you are forwarded to the Department's voice mail. Our operators transcribe the voicemail messages at a minimum of every two hours and pass the callback messages to our Tax Examiners for response. Due to the volume of calls, it may take a couple of days

to return a call. If you have already left a message on the voicemail system, please be patient and avoid leaving multiple messages. This causes the voicemail box to fill up and inconvenience other taxpayers who may be attempting to contact us. This also causes additional delays in our ability to respond, as multiple messages may be assigned to different Tax Examiners who are then told that the issue was already handled by another Department representative. We are working with the State's telephone division to determine the best solution to handle this increased telephone volume.

### **SUCCESSOR'S LIABILITY**

Taxpayers purchasing existing businesses are reminded to be aware of successor's liability (NRS 360.525). Be sure to request a "Certificate of Amount Due" for any tax or fee administered by the Department. If you don't take action, you may become personally liable for the payment of any taxes from the prior owner up to the extent of the consideration paid for the business or any stock of goods, valued in money.

### **DISCOUNT COUPONS**

Many businesses offer their own coupons involving reductions in the price of meals and beverages as an inducement to trade at their place of business; i.e., "\$2.00 off a brunch buffet," "buy-one-get-one-free" or "two for one." The Department has received a number of complaints from customers that they were charged sales tax on the full retail price of the items for which they had a discount coupon. If the retailer provides its own non-reimbursable coupons to customers, these coupons should be treated as "cash discounts." The tax applies only to the net sales price charged the customer [NRS 372.025(3)(a) and NRS 372.065(3)(a)]

#### EXAMPLES:

- (1) "Get \$2.00 off an \$8.00 lunch buffet." Tax is due on the actual cash price (\$6.00) paid by the purchaser for the lunch buffet.
- (2) "Buy one dinner for \$15.00; get another dinner of equal or lesser value free." Tax is due on the actual cash price (\$15.00) paid by the purchaser for the original dinner.
- (3) "Buy two buffets for the price of one at \$10.00." Tax is due on the actual price (\$10.00) paid by the purchaser of the buffet meal(s). Since these coupons are treated as discounts rather than "complimentary(ies)," the value of redeemed coupons should not be included in tax calculations by the seller.
- (4) "Buy 10 sub sandwiches and get one (at a later date) free." The business giving away the "free" sandwich is liable for use tax on the cost of the ingredients used to produce the sandwich. The customer that receives the "free" sandwich is not liable for sales tax.

### **MULTIPLE MAILINGS FROM THE DEPARTMENT**

The Department of Taxation is currently in the stages of implementing a completely Unified Tax System (informally

known as Tax Administration System, or "TAS") for the administration of all taxes. During the transition period, taxpayers may receive mailings from both the new and legacy (i.e. "old") systems, depending on the tax type that the correspondence is referencing. As an example, a sales tax bill will currently have a different format than a Modified Business Tax (MBT) bill, as these taxes are administered in separate systems. Once the new tax administration system is fully implemented, the format for all similar correspondence (i.e., tax returns, credit notices, bills, etc.) will be uniform regardless of tax type.

As part of the initial implementation, the administration of the MBT and BL (Business License) has been integrated into the new system. The Department has been distributing MBT and BL specific correspondence out of the new system for several months now on a weekly basis. This has included MBT returns, BL renewals and licenses, credit notices, cancellation notices, offset notices, welcome letters and billings.

Taxpayers may also receive multiple mailings from the Department because each applicable notice generated out of the new system is tax-type specific and may also be specific to a single account period, depending on the correspondence. For example, the Department will issue an initial bill for a specific account period if there is an amount owed for an underpaid MBT return that was recently filed. If several underpaid returns for past periods are all filed at once, then several separate initial bills will be issued. If that taxpayer does not submit payment in full for the initial bill(s), it will then receive a single monthly bill approximately 30 days later that will include and summarize all account period liabilities due for that specific tax type.

### **POTENTIAL FINE OF UP TO \$500 FOR FAILURE TO FILE SALES/USE TAX RETURNS**

Pursuant to NRS 372.755, the Department may assess a fine of up to \$500.00 on any retailer or other person who fails or refuses to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the Department. The Department may implement this fine on non-filed returns in the very near future.

### **ADDRESS CHANGE: CARSON CITY DEPARTMENT OF TAXATION OFFICE**

Effective February 28, 2006, the "East" has been deleted by Carson City from our College Parkway mailing and physical location address. In the future, the address is simply "1550 College Parkway, Suite 115."

### **HOLIDAY CLOSURES**

The Department of Taxation offices will be closed on the following days in the second quarter of 2006:

Monday, May 29, 2006 – Memorial Day